



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

IBM CORP (YA)  
C/O YEE & ASSOCIATES PC  
P.O. BOX 802333  
DALLAS TX 75380

**COPY MAILED**

**MAY 04 2007**

**OFFICE OF PETITIONS**

In re Application of  
Franck Barilloud, et al.  
Application No. 09/714,724  
Filed: November 16, 2000  
Attorney Docket No. AUS920000483US1

:  
:  
:  
:  
:

**ON PETITION**

This is a decision in response to the communication, filed October 13, 2006, which is being treated as a petition to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED** because it is unsigned. It is noted that the signature page is missing, since the "petition" consists of page 1 of Form PTO/SB/64, which is a 2-page form entitled "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)."

37 CFR 1.33(b) states that:

Amendments and other papers filed in the application must be signed by:

- (1) An attorney or agent of record appointed in compliance with §1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
- (5) **All of the applicants** (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

Further, a grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(III)(C) and (D).

Petitioner has supplied the reply in the form of an election of the invention to be examined and the petition fee of \$1,500; however, the petition lacks an adequate statement of unintentional delay. See item (3) above.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the omissions noted above.


Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

By hand:                     U.S. Patent and Trademark Office  
                                    Customer Service Window, Mail Stop PETITION  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.